

REMARKS*Rejections Relying on 35 U.S.C. § 102(e)*

Applicant notes that references used in support of the rejections rely on 35 U.S.C. § 102(e). In responding to the rejections, Applicant does not admit that the references are prior art and Applicant specifically reserves the right to swear behind these references at a future date.

*Claim Rejections Under 35 U.S.C. § 102*

Claims 1, 3, 4, 7, 10-13, 18 and 19 were rejected under 35 U.S.C. § 102(e) as being anticipated by Nishii (U.S. Patent No. 6,698,950 B2). Applicant respectfully traverses.

Claims 1, 4, 7, 10 and 18-19

Claim 1 recites, in part, “determining whether the potential user of the imaging device is a likely user of the imaging device in response to remotely detecting the potential user” and “beginning an initialization of the imaging device in response, at least in part, to remotely detecting the potential user and determining that the potential user is a likely user of the imaging device.” Claim 10 recites, in part, “determining whether the potential user of the imaging device is a likely user of the imaging device” and “beginning an initialization of the imaging device in response, at least in part, to detecting the potential user, and only when the potential user of the imaging device is a likely user of the imaging device.” Claim 18 recites, in part, “receiving a first signal indicative of a presence of a potential user of an imaging device,” “determining whether the potential user of the imaging device is a likely user of the imaging device in response to receiving the first signal” and “providing a second signal directed to the imaging device and adapted to begin an initialization of the imaging device if it is determined that the potential user is a likely user.”

Applicant has noted that many imaging devices require long initialization periods before they are capable of producing images at a desired quality level. Specification, paragraph 0002. For various embodiments, detection of a potential user of an imaging device is utilized to begin the device initialization prior to when the user might be expected to access the imaging device. *Id.*, paragraph 0005. By beginning the initialization process prior to the user’s expected access of the device, wait time experienced by the user may be reduced

without a need to continuously maintain the device in a full powered-up state or even to maintain the device in a stand-by state. *Id.* Thus it is clear that determining whether a potential user is a likely user must relate to a future event, i.e., whether the potential user is expected to access the imaging device at a point in time occurring after their detection.

Contrary to the limitations of Applicant's claims 1, 10 and 18, Nishii is not concerned with device initialization. Instead, Nishii is concerned with appropriately giving priority to print requests and copying operations in a printer capable of managing to sequentially process a multiple number of print requests from a variety of terminals and for copying operation. Nishii, column 2, lines 15-18. Nishii provides no guidance on when to initialize its printer, but merely when to start printer jobs already in its memory.

Even if the starting of a printer job could be considered a device initialization, which Applicant denies, the decision to start the printer job is not made on a basis of whether the detected user is a likely user of the imaging device, but on the basis of whether the detected user has already accessed the imaging device by sending it a printer job. In response to detecting a potential user, Nishii purports to determine whether that potential user has any currently pending printer jobs. If there are no currently pending printer jobs for the detected user, no action is taken. *See*, Nishii, Figure 7 and accompanying text. In other words, Nishii does not determine whether a potential user is a likely user as it does not look to the likelihood of a future event, but merely assesses the user in relation to currently pending events. Applicant thus respectfully contends that Nishii fails to teach or suggest at least these limitations of claims 1, 10 and 18.

In view of the foregoing, Applicant contends that claims 1, 10 and 18 are patentably distinct from the cited reference. As claims 4, 7 and 10 include all patentable limitations of claim 1 and claim 19 includes all patentable limitations of claim 18, these claims are also believed to be allowable. Applicant thus respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. § 102(e), and allowance of claims 1, 4, 7, 10 and 18-19.

### Claim 3

Claim 3 recites, in part, “beginning an initialization of the imaging device in response, at least in part, to detecting the potential user,” “wherein detecting a potential user of the imaging device comprises detecting that a person has entered a facility housing the imaging

device” and “wherein detecting a potential user of the imaging device further comprises determining an identity of the person who entered the facility and deciding whether the person is a potential user based on their identity.”

The Office Action admits, “Nishii does not specifically disclose the claimed method of detecting a potential user of the imaging device comprises detecting that a person has entered a facility housing the imaging device . . . .” Office Action, page 4, section 4. On that basis alone, Applicant contends that a rejection under 35 U.S.C. § 102(e) is improper as to claim 3.

As noted with respect to claims 1, 10 and 18, Applicant contends that Nishii provides no guidance on when to initialize an imaging device, but instead only concerns itself with prioritizing printer jobs already received by the imaging device. Therefore, even if Nishii’s detection of a user near the imaging device could be read to include or suggest detection of a person entering a facility housing the imaging device, which Applicant denies, Nishii does not teach or disclose initialization of an imaging device on that basis. In addition, Applicant contends that Nishii does not determine whether a detected person is a potential user, but whether the detected person has already sent the imaging device a printer job. *See*, Nishii, Figure 7 and accompanying text. As such, the person has already become a user of the imaging device before their detection and cannot, therefore, be deemed a potential user as that term is used by Applicant in its Specification and claims.

In view of the foregoing, Applicant contends that claim 3 is patentably distinct from the cited reference. Applicant thus respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. § 102(e), and allowance of claim 3.

#### Claims 11-13

Claim 11 recites, in part, “wherein the management facility is adapted to initialize one or more of the imaging devices in response to a predefined criteria,” “wherein the predefined criteria comprises at least whether a sensor indicates detection of a potential user” and “wherein the predefined criteria further comprises an indication of a likelihood that the potential user might desire to use one or more of the imaging devices prior to the potential user accessing the network or any of the imaging devices.” As noted with respect to claims 1, 10 and 18, Nishii does not purport to do anything in response to detecting a user unless that user has already sent a currently pending printer job. As such, Nishii cannot teach or suggest

initializing an imaging device in response to a predefined criteria that include an indication that the user might desire to use the imaging device prior to accessing the network or any of the imaging devices contained thereon. In order to generate a printer job in the process of Nishii, the detected user must have already accessed either the network on which the printer resides or the printer itself. This is in direct contradiction to the limitation of claim 11. Thus, Applicant contends that Nishii expressly teaches away from the limitations of claim 11.

In view of the foregoing, Applicant contends that claim 11 is patentably distinct from the cited reference. As claims 12-13 include all patentable limitations of claim 11, these claims are also believed to be allowable. Applicant thus respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. § 102(e), and allowance of claims 11-13.

*Claim Rejections Under 35 U.S.C. § 103*

Claim 2

Claim 2 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Nishii (U.S. Patent No. 6,698,950 B2) in view of Gonnella, Jr. et al. (U.S. Patent No. 6,577,825). Applicant respectfully traverses.

Applicant contends that it has shown claim 1 to be patentably distinct from the primary reference of Nishii. The secondary reference of Gonnella, Jr. et al. fails to overcome the deficiencies of the primary reference. Applicant thus respectfully submits that the cited references, either alone or in combination, fail to teach or suggest each and every element of Applicant's claim 1. As claim 2 includes all patentable limitations of claim 1, this claim is also believed to be allowable. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. § 103(a), and allowance of claim 2.

Claims 5, 6, 14, 15 and 20

Claims 5, 6, 14, 15 and 20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Nishii (U.S. Patent No. 6,698,950 B2) in view of Gonnella, Jr. et al. (U.S. Patent No. 6,577,825).

Applicant contends that it has shown claims 1, 11 and 18 to be patentably distinct from the primary reference of Nishii. The secondary reference of Gonnella, Jr. et al. fails to overcome the deficiencies of the primary reference. Applicant thus respectfully submits that the cited references, either alone or in combination, fail to teach or suggest each and every

element of Applicant's claim 1, 11 or 18. As claims 5 and 6 include all patentable limitations of claim 1, claims 14 and 15 include all patentable limitations of claim 11, and claim 20 includes all patentable limitations of claim 18, these claims are also believed to be allowable. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. § 103(a), and allowance of claims 5, 6, 14, 15 and 20.

#### Claims 8-9

Claims 8-9 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Nishii (U.S. Patent No. 6,698,950 B2) in view of Nakamura et al. (U.S. Patent No. 6,151,464).

Claim 8 recites, in part, “determining whether the potential user of the imaging device is a likely user of the imaging device,” “beginning an initialization of the imaging device in response, at least in part, to detecting the potential user, and only when the potential user of the imaging device is a likely user of the imaging device” and “wherein determining whether the potential user of the imaging device is a likely user of the imaging device further comprises evaluating past behaviors of the potential user.”

As noted with respect to claims 1, 10 and 18, Applicant contends that Nishii does not teach or suggest determining whether a potential user is a likely user of the imaging device. Instead, Nishii only purports to determine whether the potential user has actually become a current user of the imaging device. The secondary reference of Nakamura et al. suffers the same deficiency, i.e., that Nakamura et al. does not purport to initialize an imaging device or even start a printer job unless the detected user has already accessed the imaging device. *See*, Nakamura et al., Figure 1 and accompanying text. Thus, alone or in combination, the cited references do not teach or suggest determining whether a potential user is a likely user of the imaging device as that term is used and recited in Applicant's Specification and claims.

Furthermore, Nishii and Nakamura et al. each start printer output if a detected user has a currently pending printer job, regardless of whether that detected user is a likely user of the imaging device at some future time. Thus, even if starting printer output can be read to include device initialization, which Applicant denies, printer output is allowed in situations expressly disallowed by Applicant's claim 8. Accordingly, Applicant contends that the cited references, either alone or in combination, expressly teach away from the limitations of Applicant's claim 8.

In addition, the Office Action asserts, “Since both Nishii and Nakamura disclose systems that keep a log of each user, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of using the history as behavior of the user(s), as disclosed by Nakamura, with the system of Nishii, as a means for conserving power and not unnecessarily initializing the imaging device when not needed.” Applicant respectfully disagrees. Neither Nishii nor Nakamura et al. purport to determine, on any basis, the likelihood that a detected user will use the imaging device at some point in the future. Each is concerned only with managing output from already-received printer jobs. Nakamura et al.’s use of prior behavior in prioritizing output of an imaging device that is presumably already initialized is wholly unrelated to the subject of conserving power.

Applicant contends that the use of Nakamura et al. to modify Nishii is improper. Applicant is unable to locate a teaching, suggestion or motivation to combine Nakamura et al. with Nishii in a manner necessary to support the rejection contained in either reference. Accordingly, the Office Action must be relying on knowledge generally available to one of ordinary skill in the art to provide the required teaching, suggestion or motivation. *See* MPEP § 2143.01. Applicant suggests that a goal of conserving power is merely a conclusion, and not an objective reasoning in support of a conclusion to combine the teachings of the specific references.

Even if combination were proper, which Applicant denies, the combination fails to teach or suggest each and every element of Applicant’s claims. As noted above, neither reference determines whether a detected user is a likely user as that term is used and defined in Applicant’s Specification and claims. Neither provides any guidance on what basis to initialize a device. And both references allow printer output under conditions specifically excluded by the limitations of claim 8.

In view of the foregoing, Applicant contends that claim 8 is patentably distinct from the cited references, either alone or in combination. As claim 9 includes all patentable limitations of claim 8, this claim is also believed to be allowable. Applicant thus respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. § 103(a), and allowance of claims 8-9.

Claim 17

Claim 17 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Nishii (U.S. Patent No. 6,698,950 B2) in view of Nakamura et al. (U.S. Patent No. 6,151,464).

Applicant contends that it has shown claim 11 to be patentably distinct from the primary reference of Nishii. The secondary reference of Nakamura et al. fails to overcome the deficiencies of the primary reference. Applicant thus respectfully submits that the cited references, either alone or in combination, fail to teach or suggest each and every element of Applicant's claim 11. As claim 17 includes all patentable limitations of claim 11, this claim is also believed to be allowable. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. § 103(a), and allowance of claim 17.

**CONCLUSION**

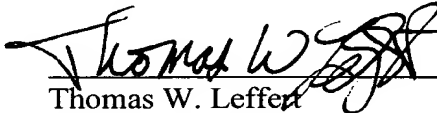
In view of the above remarks, Applicant respectfully submits that the claims are in condition for allowance and requests reconsideration of the application and allowance of the claims.

If the Examiner has any questions or concerns regarding this application, please contact the undersigned at (612) 312-2204.

Respectfully submitted,

Date:

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